

House Study Bill 220 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON BLOOMINGDALE)

A BILL FOR

1 An Act establishing the dentist and dental hygienist compact.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 147G.1 Dentist and dental hygienist
2 compact.

3 1. *Title and purpose.* This chapter shall be known and cited
4 as the dentist and dental hygienist compact. The purposes
5 of this compact are to facilitate the interstate practice of
6 dentistry and dental hygiene and improve public access to
7 dentistry and dental hygiene services by providing dentists
8 and dental hygienists licensed in a participating state the
9 ability to practice in participating states in which they are
10 not licensed. The compact does this by establishing a pathway
11 for dentists and dental hygienists licensed in a participating
12 state to obtain a compact privilege that authorizes them to
13 practice in another participating state in which they are not
14 licensed. The compact enables participating states to protect
15 the public health and safety with respect to the practice
16 of such dentists and dental hygienists through the state's
17 authority to regulate the practice of dentistry and dental
18 hygiene in the state. The compact:

19 a. Enables dentists and dental hygienists who qualify for
20 a compact privilege to practice in other participating states
21 without satisfying burdensome and duplicative requirements
22 associated with securing a license to practice in those states.

23 b. Promotes mobility and addresses workforce shortages
24 through each participating state's acceptance of a compact
25 privilege to practice in that state.

26 c. Increases public access to qualified, licensed dentists
27 and dental hygienists by creating a responsible, streamlined
28 pathway for licensees to practice in participating states.

29 d. Enhances the ability of participating states to protect
30 the public's health and safety.

31 e. Does not interfere with licensure requirements
32 established by a participating state.

33 f. Facilitates the sharing of licensure and disciplinary
34 information among participating states.

35 g. Requires dentists and dental hygienists who practice in a

1 participating state pursuant to a compact privilege to practice
2 within the scope of practice authorized in that state.

3 *h.* Extends the authority of a participating state to
4 regulate the practice of dentistry and dental hygiene within
5 its borders to dentists and dental hygienists who practice in
6 the state through a compact privilege.

7 *i.* Promotes the cooperation of participating states in
8 regulating the practice of dentistry and dental hygiene within
9 those states.

10 *j.* Facilitates the relocation of military members and
11 their spouses who are licensed to practice dentistry or dental
12 hygiene.

13 2. *Definitions.* As used in this compact, unless the context
14 requires otherwise, the following definitions shall apply:

15 *a.* "*Active duty military*" means an individual in full-time
16 duty status in the active uniformed service of the United
17 States, including members of the national guard and reserve.

18 *b.* "*Adverse action*" means any disciplinary action or
19 encumbrance imposed on a licensee or compact privilege by a
20 state licensing authority.

21 *c.* "*Alternative program*" means a nondisciplinary monitoring
22 or practice remediation process applicable to a dentist or
23 dental hygienist approved by a state licensing authority of a
24 participating state in which the dentist or dental hygienist is
25 licensed. "*Alternative program*" includes but is not limited to
26 programs to which licensees with substance abuse or addiction
27 issues are referred in lieu of adverse action.

28 *d.* "*Clinical assessment*" means an examination or process,
29 required for licensure as a dentist or dental hygienist as
30 applicable, that provides evidence of clinical competence in
31 dentistry or dental hygiene.

32 *e.* "*Commissioner*" means the individual appointed by a
33 participating state to serve as the member of the commission
34 for that participating state.

35 *f.* "*Compact*" means this dental and dental hygienist compact.

- 1 *g. "Compact privilege"* means the authorization granted by a
2 remote state to allow a licensee from a participating state to
3 practice as a dentist or dental hygienist in a remote state.
- 4 *h. "Continuing professional development"* means a requirement
5 as a condition of license renewal to provide evidence of
6 successful participation in educational or professional
7 activities relevant to practice or area of work.
- 8 *i. "Criminal background check"* means the submission of
9 fingerprints or other biometric-based information for a license
10 applicant for the purpose of obtaining the applicant's criminal
11 history record information, as defined in 28 C.F.R. §20.3(d)
12 from the federal bureau of investigation and the state's
13 criminal history record repository as defined in 28 C.F.R.
14 §20.3(f).
- 15 *j. "Data system"* means the commission's repository of
16 information about licensees, including but not limited to
17 examinations, licensure, investigative information, compact
18 privileges, adverse actions, and alternative programs.
- 19 *k. "Dental hygienist"* means an individual who is licensed by
20 a state licensing authority to practice dental hygiene.
- 21 *l. "Dentist"* means an individual who is licensed by a state
22 licensing authority to practice dentistry.
- 23 *m. "Dentist and dental hygienist compact commission" or*
24 *"commission"* means a joint government agency established by this
25 compact comprised of each state that has enacted the compact
26 and a national administrative body comprised of a commissioner
27 from each state that has enacted the compact.
- 28 *n. "Encumbered license"* means a license that a state
29 licensing authority has limited in any way other than through
30 an alternative program.
- 31 *o. "Executive board"* means the chair, vice chair, secretary,
32 and treasurer, and any other commissioners as may be determined
33 by commission rule or bylaw.
- 34 *p. "Jurisprudence requirement"* means the assessment of an
35 individual's knowledge of the laws and rules governing the

1 practice of dentistry or dental hygiene, as applicable, in a
2 state.

3 *q. "License"* means current authorization by a state, other
4 than authorization pursuant to a compact privilege, or other
5 privilege, for an individual to practice as a dentist or dental
6 hygienist in that state.

7 *r. "Licensee"* means an individual who holds an unrestricted
8 license from a participating state to practice as a dentist or
9 dental hygienist in that state.

10 *s. "Model compact"* means the model for the dentist and
11 dental hygienist compact on file with the council of state
12 governments or other entity as designated by the commission.

13 *t. "Participating state"* means a state that has enacted the
14 compact and been admitted to the commission in accordance with
15 the provisions of the compact and commission rules.

16 *u. "Qualifying license"* means a license that is not an
17 encumbered license issued by a participating state to practice
18 dentistry or dental hygiene.

19 *v. "Remote state"* means a participating state where a
20 licensee who is not licensed as a dentist or dental hygienist
21 is exercising or seeking to exercise the compact privilege.

22 *w. "Rule"* means a regulation promulgated by an entity that
23 has the force of law.

24 *x. "Scope of practice"* means the procedures, actions, and
25 processes a dentist or dental hygienist licensed in a state
26 is permitted to undertake in that state and the circumstances
27 under which the licensee is permitted to undertake those
28 procedures, actions, and processes. Such procedures, actions,
29 and processes and the circumstances under which they may
30 be established through means, including but not limited to
31 statutes, regulations, case law, and other processes available
32 to the state licensing authority or other government agency.

33 *y. "Significant investigative information"* means information,
34 records, and documents received or generated by a state
35 licensing authority pursuant to an investigation for which a

1 determination has been made that there is probable cause to
2 believe that the licensee has violated a statute or regulation
3 that is considered more than a minor infraction for which
4 the state licensing authority could pursue an adverse action
5 against the licensee.

6 *z. "State"* means a state, commonwealth, district, or
7 territory of the United States that regulates the practices of
8 dentistry and dental hygiene.

9 *aa. "State licensing authority"* means an agency or other
10 entity of a state that is responsible for the licensing and
11 regulation of dentists or dental hygienists.

12 3. *State participation in the compact.*

13 *a.* In order to join the compact and thereafter continue as a
14 participating state, a state must do all of the following:

15 (1) Enact a compact that is not materially different from
16 the model compact, as determined in accordance with commission
17 rules.

18 (2) Participate fully in the commission's data system.

19 (3) Have a mechanism in place for receiving and
20 investigating complaints about its licensees and license
21 applicants.

22 (4) Notify the commission, in compliance with the terms of
23 the compact and commission rules, of any adverse action or the
24 availability of significant investigative information regarding
25 a licensee or license applicant.

26 (5) Fully implement a criminal background check
27 requirement, within a time frame established by commission
28 rule, by receiving the results of a qualifying criminal
29 background check.

30 (6) Comply with commission rules applicable to a
31 participating state.

32 (7) Accept the national board examinations of the joint
33 commission on national dental examinations or another
34 examination accepted by commission rule as a licensure
35 examination.

1 (8) Accept for licensure that applicants for a dentist
2 license graduate from a predoctoral dental education program
3 accredited by the commission on dental accreditation or another
4 agency permitted by commission rule, leading to the doctor of
5 dental surgery or doctor of dental medicine degree.

6 (9) Accept for licensure that applicants for a dental
7 hygienist license graduate from a dental hygiene program
8 accredited by the commission on dental accreditation or another
9 agency permitted by commission rule.

10 (10) Require for licensure that applicants successfully
11 complete a clinical assessment.

12 (11) Have continuing professional development requirements
13 as a condition for license renewal.

14 (12) Pay a participation fee to the commission as
15 established by commission rule.

16 *b.* Providing alternative pathways for an individual to
17 obtain an unrestricted license does not disqualify a state from
18 participating in the compact.

19 *c.* When conducting a criminal background check the state
20 licensing authority shall do all of the following:

21 (1) Consider that information in making a licensure
22 decision.

23 (2) Maintain documentation of the criminal background check
24 and background check information to the extent allowed by state
25 and federal law.

26 (3) Report to the commission whether a state has completed
27 the criminal background check and whether the individual was
28 granted or denied a license.

29 *d.* A licensee of a participating state who has a qualifying
30 license in that state and does not hold an encumbered license
31 in any other participating state shall be issued a compact
32 privilege in a remote state in accordance with the terms of
33 the compact and commission rules. If a remote state has a
34 jurisprudence requirement, a compact privilege will not be
35 issued to the licensee unless the licensee has satisfied the

1 jurisprudence requirement.

2 4. *Compact privilege.*

3 a. To obtain and exercise the compact privilege under the
4 terms and provisions of the compact, a licensee shall do all
5 of the following:

6 (1) Have a qualifying license as a dentist or dental
7 hygienist in a participating state.

8 (2) Be eligible for a compact privilege in any remote state
9 in accordance with paragraphs "d", "g", and "h".

10 (3) Submit to an application process whenever the licensee
11 is seeking a compact privilege.

12 (4) Pay any applicable commission and remote state fees for
13 a compact privilege in the remote state.

14 (5) Meet any jurisprudence requirement established by
15 a remote state in which the licensee is seeking a compact
16 privilege.

17 (6) Have passed a national board examination of the
18 joint commission on national dental examinations or another
19 examination accepted by commission rule.

20 (7) For a dentist, have graduated from a predoctoral dental
21 education program accredited by the commission on dental
22 accreditation, or another accrediting agency recognized by the
23 United States department of education for the accreditation of
24 dentistry and dental hygiene education programs, leading to the
25 doctor of dental surgery or doctor of dental medicine degree.

26 (8) For a dental hygienist, have graduated from a dental
27 hygiene education program accredited by the commission
28 on dental accreditation or another accrediting agency
29 recognized by the United States department of education for
30 the accreditation of dentistry and dental hygiene education
31 programs.

32 (9) Have successfully completed a clinical assessment for
33 licensure.

34 (10) Report to the commission any adverse action taken
35 by any nonparticipating state when applying for a compact

1 privilege and otherwise within thirty days from the date the
2 adverse action is taken.

3 (11) Report to the commission when applying for a compact
4 privilege the address of the licensee's primary residence and
5 thereafter immediately report to the commission any change in
6 the address of the licensee's primary residence.

7 (12) Consent to accept service of process by mail at the
8 licensee's primary residence on record with the commission
9 with respect to any action brought against the licensee
10 by the commission or a participating state, and consent to
11 accept service of a subpoena by mail at the licensee's primary
12 residence on record with the commission with respect to any
13 action brought or investigation conducted by the commission or
14 a participating state.

15 *b.* The licensee must comply with the requirements in
16 paragraph "a" to maintain the compact privilege in the remote
17 state. If those requirements are met, the compact privilege
18 will continue as long as the licensee maintains a qualifying
19 license in the state through which the licensee applied for the
20 compact privilege and pays any applicable compact privilege
21 renewal fees.

22 *c.* A licensee providing dentistry or dental hygiene in a
23 remote state under the compact privilege shall function within
24 the scope of practice authorized by the remote state for a
25 dentist or dental hygienist licensed in that state.

26 *d.* A licensee providing dentistry or dental hygiene
27 pursuant to a compact privilege in a remote state is subject
28 to that state's regulatory authority. A remote state may, in
29 accordance with due process and that state's laws, by adverse
30 action revoke or remove a licensee's compact privilege in the
31 remote state for a specific period of time, impose fines,
32 or take any other necessary actions to protect the health
33 and safety of its citizens. If a remote state imposes an
34 adverse action against a compact privilege that limits the
35 compact privilege, that adverse action applies to all compact

1 privileges in all remote states. A licensee whose compact
2 privilege in a remote state is removed for a specified period
3 of time is not eligible for a compact privilege in any other
4 remote state until the specific time for removal of the compact
5 privilege has passed and all encumbrance requirements are
6 satisfied.

7 *e.* If a license in a participating state is an encumbered
8 license, the licensee shall lose the compact privilege in a
9 remote state and shall not be eligible for a compact privilege
10 in any remote state until the license is no longer encumbered.

11 *f.* Once an encumbered license in a participating state
12 is restored to good standing, the licensee must meet the
13 requirements of paragraph "a" to obtain a compact privilege in a
14 remote state.

15 *g.* If a licensee's compact privilege in a remote state is
16 removed by the remote state, the individual shall lose or be
17 ineligible for the compact privilege in any remote state until
18 both of the following occur:

19 (1) The specified period of time for which the compact
20 privilege was removed has ended.

21 (2) All conditions for removal of the compact privilege have
22 been satisfied.

23 *h.* Once the requirements of paragraph "g" have been met, the
24 licensee must meet the requirements of paragraph "a" to obtain a
25 compact privilege in a remote state.

26 5. *Adverse actions.*

27 *a.* A participating state in which a licensee is licensed
28 shall have exclusive authority to impose adverse action against
29 the qualifying license issued by that participating state.

30 *b.* A participating state may take adverse action based on
31 significant investigative information of a remote state, so
32 long as the participating state follows its own procedures for
33 imposing adverse action.

34 *c.* Nothing in this compact shall override a participating
35 state's decision that participation in an alternative

1 program may be used in lieu of adverse action and that
2 such participation shall remain nonpublic if required by
3 the participating state's laws. Participating states must
4 require licensees who enter any alternative program in lieu
5 of discipline to agree not to practice pursuant to a compact
6 privilege in any other participating state during the term of
7 the alternative program without prior authorization from such
8 other participating state.

9 *d.* Any participating state in which a licensee is applying
10 to practice or is practicing pursuant to a compact privilege
11 may investigate actual or alleged violations of the statutes
12 and regulations authorizing the practice of dentistry or dental
13 hygiene in any other participating state in which the dentist
14 or dental hygienist holds a license or compact privilege.

15 *e.* A remote state shall have the authority to do all of the
16 following:

17 (1) Take adverse actions as set forth in subsection 4,
18 paragraph "*d*", against a licensee's compact privilege in the
19 state.

20 (2) In furtherance of its rights and responsibilities
21 under the compact and commission's rules, issue subpoenas
22 for both hearings and investigations that require the
23 attendance and testimony of witnesses and the production of
24 evidence. Subpoenas issued by a state licensing authority
25 in a participating state for the attendance and testimony
26 of witnesses, or the production of evidence from another
27 participating state, shall be enforced in the latter state by
28 any court of competent jurisdiction according to the practice
29 and procedure of that court applicable to subpoenas issued in
30 proceedings pending before it. The issuing authority shall
31 pay any witness fees, travel expenses, mileage, and other
32 fees required by the service statutes of the state where the
33 witnesses or evidence are located.

34 (3) If otherwise permitted by state law, recover from the
35 licensee the costs of investigation and disposition of cases

1 resulting from any adverse action taken against that licensee.

2 *f. Joint investigations.*

3 (1) In addition to the authority granted to a participating
4 state by its dentist or dental hygienist licensure act or
5 other applicable state law, a participating state may jointly
6 investigate licensees with other participating states.

7 (2) Participating states shall share any significant
8 investigative information, litigation, or compliance materials
9 in furtherance of any joint or individual investigation
10 initiated under the compact.

11 *g. Authority to continue investigation.*

12 (1) After a licensee's compact privilege in a remote state
13 is terminated, the remote state may continue an investigation
14 of the licensee that began when the licensee had a compact
15 privilege in that remote state.

16 (2) If the investigation yields what would be significant
17 investigative information had the licensee continued to have a
18 compact privilege in that remote state, the remote state shall
19 report the presence of such information to the data system as
20 required by subsection 7, paragraph "b", subparagraph (6), as if
21 it was significant investigative information.

22 *6. Establishment and operation of the commission.*

23 *a.* The compact participating states hereby create and
24 establish a joint government agency whose membership consists
25 of all participating states that have enacted the compact.
26 The commission is an instrumentality of the participating
27 states acting jointly and not an instrumentality of any one
28 state. The commission shall come into existence on or after
29 the effective date of the compact as set forth in subsection
30 10, paragraph "a".

31 *b. Participation, voting, and meetings.*

32 (1) Each participating state shall have and be limited
33 to one commissioner selected by the participating state's
34 state licensing authority or, if the state has more than one
35 state licensing authority, selected collectively by the state

1 licensing authorities.

2 (2) The commissioner shall be a member or designee of such
3 authority or authorities.

4 (3) The commission may by rule or bylaw establish a term
5 of office for commissioners and may by rule or bylaw establish
6 term limits.

7 (4) The commission may recommend to a state licensing
8 authority or authorities, as applicable, removal or suspension
9 of an individual as the state's commissioner.

10 (5) A participating state's state licensing authority
11 or authorities, as applicable, shall fill any vacancy of
12 its commissioner on the commission within sixty days of the
13 vacancy.

14 (6) Each commissioner shall be entitled to one vote on all
15 matters that are voted upon by the commission.

16 (7) The commission shall meet at least once during each
17 calendar year. Additional meetings may be held as set forth
18 in the bylaws. The commission may meet by telecommunication,
19 video conference, or other similar electronic means.

20 *c.* The commission shall have the following powers:

21 (1) Establish the fiscal year of the commission.

22 (2) Establish a code of conduct and conflict of interest
23 policies.

24 (3) Adopt rules and bylaws.

25 (4) Maintain its financial records in accordance with the
26 bylaws.

27 (5) Meet and take such actions as are consistent with the
28 provisions of this compact, the commission's rules, and the
29 bylaws.

30 (6) Initiate and conclude legal proceedings or actions in
31 the name of the commission, provided that the standing of a
32 state licensing authority to sue or be sued under applicable
33 law shall not be affected.

34 (7) Maintain and certify records and information provided
35 to a participating state as the authenticated business records

1 of the commission, and designate a person to do so on the
2 commission's behalf.

3 (8) Purchase and maintain insurance and bonds.

4 (9) Borrow, accept, or contract for services of personnel,
5 including but not limited to employees of a participating
6 state.

7 (10) Conduct an annual financial review.

8 (11) Hire employees, elect or appoint officers, fix
9 compensation, define duties, grant such individuals appropriate
10 authority to carry out the purposes of the compact, and
11 establish the commission's personnel policies and programs
12 relating to conflicts of interest, qualifications of personnel,
13 and other related personnel matters.

14 (12) As set forth in the commission rules, charge a fee to
15 a licensee for the grant of a compact privilege in a remote
16 state and thereafter, as may be established by commission
17 rule, charge the licensee a compact privilege renewal fee
18 for each renewal period in which that licensee exercises or
19 intends to exercise the compact privilege in that remote state.
20 Nothing herein shall be construed to prevent a remote state
21 from charging a licensee a fee for a compact privilege or
22 renewals of a compact privilege, or a fee for the jurisprudence
23 requirement if the remote state imposes such a requirement for
24 the grant of a compact privilege.

25 (13) Accept any and all appropriate gifts, donations,
26 grants of money, other sources of revenue, equipment, supplies,
27 materials, and services, and receive, utilize, and dispose of
28 the same, provided that at all times the commission shall avoid
29 any appearance of impropriety or conflict of interest.

30 (14) Lease, purchase, retain, own, hold, improve, or use any
31 property, real, personal, or mixed, or any undivided interest
32 therein.

33 (15) Sell, convey, mortgage, pledge, lease, exchange,
34 abandon, or otherwise dispose of any property, real, personal,
35 or mixed.

1 (16) Establish a budget or make expenditures.

2 (17) Borrow money.

3 (18) Appoint committees, including standing committees,
4 which may be composed of members, state regulators,
5 state legislators or their representatives, and consumer
6 representatives, and such other interested persons as may be
7 designated in this compact and the bylaws.

8 (19) Provide and receive information from, and cooperate
9 with, law enforcement agencies.

10 (20) Elect a chair, vice chair, secretary, and treasurer,
11 and such other officers of the commission as provided in the
12 commission's bylaws.

13 (21) Establish and elect an executive board.

14 (22) Adopt and provide to the participating states an annual
15 report.

16 (23) Determine whether a state's enacted compact is
17 materially different from the model compact language such that
18 the state would not qualify for participation in the compact.

19 (24) Perform such other functions as may be necessary or
20 appropriate to achieve the purposes of this compact.

21 *d. Meetings of the commission.*

22 (1) All meetings of the commission that are not closed
23 pursuant to this paragraph shall be open to the public. Notice
24 of public meetings shall be posted on the commission's internet
25 site at least thirty days prior to the public meeting.

26 (2) Notwithstanding subparagraph (1), the commission may
27 convene an emergency public meeting by providing at least
28 twenty-four hours prior notice on the commission's internet
29 site, and any other means as provided in the commission's
30 rules, for any of the reasons it may dispense with notice
31 of proposed rulemaking under subsection 8, paragraph "1".

32 The commission's legal counsel shall certify that one of the
33 reasons justifying an emergency public meeting has been met.

34 (3) Notice of all commission meetings shall provide the
35 time, date, and location of the meeting, and if the meeting

1 is to be held or accessible via telecommunication, video
2 conference, or other electronic means, the notice shall include
3 the mechanism for access to the meeting through such means.

4 (4) The commission may convene in a closed, nonpublic
5 meeting for the commission to receive legal advice or to
6 discuss any of the following:

7 (a) Noncompliance of a participating state with its
8 obligations under the compact.

9 (b) The employment, compensation, discipline, or other
10 matters, practices, or procedures related to specific employees
11 or other matters related to the commission's internal personnel
12 practices and procedures.

13 (c) Current or threatened discipline of a licensee
14 or compact privilege holder by the commission or by a
15 participating state's licensing authority.

16 (d) Current, threatened, or reasonably anticipated
17 litigation.

18 (e) Negotiation of contracts for the purchase, lease, or
19 sale of goods, services, or real estate.

20 (f) Accusing any person of a crime or formally censuring any
21 person.

22 (g) Trade secrets or commercial or financial information
23 that is privileged or confidential.

24 (h) Information of a personal nature where disclosure would
25 constitute a clearly unwarranted invasion of personal privacy.

26 (i) Investigative records compiled for law enforcement
27 purposes.

28 (j) Information related to any investigative reports
29 prepared by or on behalf of or for use of the commission or
30 other committee charged with responsibility of investigation or
31 determination of compliance issues pursuant to the compact.

32 (k) Legal advice.

33 (l) Matters specifically exempted from disclosure to the
34 public by federal or participating state law.

35 (m) Other matters as promulgated by the commission by rule.

1 (5) If a meeting, or portion of a meeting, is closed, the
2 presiding officer shall state that the meeting will be closed
3 and reference each relevant exempting provision, and such
4 reference shall be recorded in the minutes.

5 (6) The commission shall keep minutes that fully and clearly
6 describe all matters discussed in a meeting and shall provide
7 a full and accurate summary of actions taken, and the reasons
8 therefore, including a description of the views expressed.
9 All documents considered in connection with an action shall
10 be identified in such minutes. All minutes and documents of
11 a closed meeting shall remain under seal, subject to release
12 only by a majority vote of the commission or order of a court of
13 competent jurisdiction.

14 *e. Financing of the commission.*

15 (1) The commission shall pay or provide for the payment of
16 the reasonable expenses of its establishment, organization, and
17 ongoing activities.

18 (2) The commission may accept any and all appropriate
19 sources of revenue, donations, and grants of money, equipment,
20 supplies, materials, and services.

21 (3) The commission may levy on and collect an annual
22 assessment from each participating state and impose fees on
23 licensees of participating states when a compact privilege is
24 granted to cover the cost of the operations and activities
25 of the commission and its staff, which must be in a total
26 amount sufficient to cover its annual budget as approved each
27 fiscal year for which sufficient revenue is not provided by
28 other sources. The aggregate annual assessment amount for
29 participating states shall be allocated based upon a formula
30 that the commission shall promulgate by rule.

31 (4) The commission shall not incur obligations of any kind
32 prior to securing the funds adequate to meet the same, nor
33 shall the commission pledge the credit of any participating
34 state, except by and with the authority of the participating
35 state.

1 (5) The commission shall keep accurate accounts of all
2 receipts and disbursements. The receipts and disbursements
3 of the commission shall be subject to the financial review
4 and accounting procedures established under its bylaws. All
5 receipts and disbursements of funds handled by the commission
6 shall be subject to an annual financial review by a certified
7 or licensed public accountant, and the report of the financial
8 review shall be included in and become part of the annual
9 report of the commission.

10 *f. The executive board.*

11 (1) The executive board shall have the power to act on
12 behalf of the commission according to the terms of this
13 compact. The powers, duties, and responsibilities of the
14 executive board shall include all of the following:

15 (a) Overseeing the day-to-day activities of the
16 administration of the compact including compliance with the
17 provisions of the compact, the commission's rules, and bylaws.

18 (b) Recommending to the commission changes to the rules or
19 bylaws, changes to this compact legislation, fees charged to
20 the compact participating states, fees charged to licensees,
21 and other fees.

22 (c) Ensuring compact administration services are
23 appropriately provided, including by contract.

24 (d) Preparing and recommending the budget.

25 (e) Maintaining financial records on behalf of the
26 commission.

27 (f) Monitoring compact compliance of participating states
28 and providing compliance reports to the commission.

29 (g) Establishing additional committees as necessary.

30 (h) Exercising the powers and duties of the commission
31 during the interim between commission meetings, except for
32 adopting or amending rules, adopting or amending bylaws, and
33 exercising any other powers and duties expressly reserved to
34 the commission by rule or bylaw.

35 (i) Other duties as provided in the rules or bylaws of the

1 commission.

2 (2) The executive board shall be composed of up to seven
3 members:

4 (a) The chair, vice chair, secretary, and treasurer of the
5 commission, and any other members of the commission who serve
6 on the executive board shall be voting members of the executive
7 board.

8 (b) Other than the chair, vice chair, secretary, and
9 treasurer of the commission, the commission may elect up
10 to three voting members from the current membership of the
11 commission.

12 (3) The commission may remove any member of the executive
13 board as provided in the commission's bylaws.

14 (4) The executive board shall meet at least annually.

15 (a) An executive board meeting at which it takes or intends
16 to take formal action on a matter shall be open to the public,
17 except that the executive board may meet in a closed, nonpublic
18 session of a public meeting when dealing with any of the
19 matters covered under paragraph "d", subparagraph (4).

20 (b) The executive board shall give five business days'
21 notice of its public meetings, posted on its internet site and
22 as it may otherwise determine to provide notice to persons with
23 an interest in the public matters the executive board intends
24 to address at those meetings.

25 (5) The executive board may hold an emergency meeting when
26 acting for the commission to do any of the following:

27 (a) Meet an imminent threat to public health, safety, or
28 welfare.

29 (b) Prevent a loss of commission or participating state
30 funds.

31 (c) Protect public health and safety.

32 *g. Qualified immunity, defense, and indemnification.*

33 (1) The members, officers, executive director, employees,
34 and representatives of the commission shall be immune from suit
35 and liability, both personally and in their official capacity,

1 for any claim for damage to or loss of property or personal
2 injury or other civil liability caused by or arising out of any
3 actual or alleged act, error, or omission that occurred, or
4 that the person against whom the claim is made had a reasonable
5 basis for believing occurred within the scope of commission
6 employment, duties, or responsibilities; provided that nothing
7 in this paragraph shall be construed to protect any such
8 person from suit or liability for any damage, loss, injury,
9 or liability caused by the intentional, willful, or wanton
10 misconduct of that person. The procurement of insurance of any
11 type by the commission shall not in any way compromise or limit
12 the immunity granted hereunder.

13 (2) The commission shall defend any member, officer,
14 executive director, employee, and representative of the
15 commission in any civil action seeking to impose liability
16 arising out of any actual or alleged act, error, or omission
17 that occurred within the scope of commission employment,
18 duties, or responsibilities, or as determined by the commission
19 that the person against whom the claim is made had a reasonable
20 basis for believing occurred within the scope of commission
21 employment, duties, or responsibilities; provided that nothing
22 in this paragraph shall be construed to prohibit that person
23 from retaining counsel at that person's own expense; and
24 provided further that the actual or alleged act, error,
25 or omission did not result from that person's intentional,
26 willful, or wanton misconduct.

27 (3) Notwithstanding subparagraph (1), should any member,
28 officer, executive director, employee, or representative of the
29 commission be held liable for the amount of any settlement or
30 judgment arising out of any actual or alleged act, error, or
31 omission that occurred within the scope of that individual's
32 employment, duties, or responsibilities for the commission,
33 or that the person to whom the individual is liable had a
34 reasonable basis for believing occurred within the scope of
35 the individual's employment, duties, or responsibilities

1 for the commission, the commission shall indemnify and hold
2 harmless such individual, provided that the actual or alleged
3 act, error, or omission did not result from the intentional,
4 willful, or wanton misconduct of the individual.

5 (4) Nothing in this compact shall be construed as a
6 limitation on the liability of any licensee for professional
7 malpractice or misconduct, which shall be governed solely by
8 any other applicable state laws.

9 (5) Nothing in this compact shall be interpreted to waive
10 or otherwise abrogate a participating state's state action
11 immunity or state action affirmative defense with respect to
12 antitrust claims under the Sherman Act, Clayton Act, or any
13 other state or federal antitrust or anticompetitive law or
14 regulation.

15 (6) Nothing in this compact shall be construed to be a
16 waiver of sovereign immunity by the participating states or by
17 the commission.

18 7. *Data system.*

19 a. The commission shall provide for the development,
20 maintenance, operation, and utilization of a coordinated
21 database and reporting system containing licensure, adverse
22 action, and the presence of significant investigative
23 information on all licensees and applicants for a license in
24 participating states.

25 b. Notwithstanding any other provision of state law to the
26 contrary, a participating state shall submit a uniform data
27 set to the data system on all individuals to whom this compact
28 is applicable as required by the rules of the commission,
29 including all of the following:

30 (1) Identifying information.

31 (2) Licensure data.

32 (3) Adverse actions against a licensee, license applicant,
33 or compact privilege, and information related thereto.

34 (4) Nonconfidential information related to alternative
35 program participation, the beginning and ending dates of

1 such participation, and other information related to such
2 participation.

3 (5) Any denial of an application for licensure and the
4 reason for such denial, excluding the reporting of any criminal
5 history record information where prohibited by law.

6 (6) The presence of significant investigative information.

7 (7) Other information that may facilitate the
8 administration of this compact or the protection of the public,
9 as determined by the rules of the commission.

10 c. The records and information provided to a participating
11 state pursuant to this compact or through the data system,
12 when certified by the commission or an agent thereof,
13 shall constitute the authenticated business records of the
14 commission, and shall be entitled to any associated hearsay
15 exception in any relevant judicial, quasi-judicial, or
16 administrative proceedings in a participating state.

17 d. Significant investigative information pertaining to a
18 licensee in any participating state will only be available to
19 other participating states.

20 e. It is the responsibility of the participating states
21 to monitor the database to determine whether adverse action
22 has been taken against a licensee or license applicant.
23 Adverse action information pertaining to a licensee or license
24 applicant in any participating state will be available to any
25 other participating state.

26 f. Participating states contributing information to the data
27 system may designate information that may not be shared with
28 the public without the express permission of the contributing
29 state.

30 g. Any information submitted to the data system that is
31 subsequently expunged pursuant to federal law or the laws of
32 the participating state contributing the information shall be
33 removed from the data system.

34 8. *Rulemaking.*

35 a. The commission shall promulgate reasonable rules in

1 order to effectively and efficiently implement and administer
2 the purposes and provisions of the compact. A commission rule
3 shall be invalid and have no force or effect only if a court of
4 competent jurisdiction holds that the rule is invalid because
5 the commission exercised its rulemaking authority in a manner
6 that is beyond the scope and purposes of the compact or the
7 powers granted hereunder, or based upon another applicable
8 standard of review.

9 *b.* The rules of the commission shall have the force of
10 law in each participating state, provided however that where
11 the rules of the commission conflict with the laws of the
12 participating state that establish the participating state's
13 scope of practice as held by a court of competent jurisdiction,
14 the rules of the commission shall be ineffective in that state
15 to the extent of the conflict.

16 *c.* The commission shall exercise its rulemaking powers
17 pursuant to the criteria set forth in this section and the
18 rules adopted thereunder. Rules shall become binding as of the
19 date specified by the commission for each rule.

20 *d.* If a majority of the legislatures of the participating
21 states rejects a commission rule or portion of a commission
22 rule, by enactment of a statute or resolution in the same
23 manner used to adopt the compact, within four years of the date
24 of adoption of the rule, then such rule shall have no further
25 force and effect in any participating state or to any state
26 applying to participate in the compact.

27 *e.* Rules shall be adopted at a regular or special meeting
28 of the commission.

29 *f.* Prior to adoption of a proposed rule, the commission
30 shall hold a public hearing and allow persons to provide oral
31 and written comments, data, facts, opinions, and arguments.

32 *g.* Prior to adoption of a proposed rule by the commission,
33 and at least thirty days in advance of the meeting at which the
34 commission will hold a public hearing on the proposed rule,
35 the commission shall provide a notice of proposed rulemaking

1 as follows:

2 (1) On the internet site of the commission or other publicly
3 accessible platform.

4 (2) To persons who have requested notice of the commission's
5 notices of proposed rulemaking.

6 (3) In such other ways as the commission may by rule
7 specify.

8 *h.* The notice of proposed rulemaking shall include all of
9 the following:

10 (1) The time, date, and location of the public hearing at
11 which the commission will hear public comments on the proposed
12 rule and, if different, the time, date, and location of the
13 meeting where the commission will consider and vote on the
14 proposed rule.

15 (2) If the hearing is held via telecommunication, video
16 conference, or other electronic means, the commission shall
17 include the mechanism for access to the hearing in the notice
18 of proposed rulemaking.

19 (3) The text of the proposed rule and the reason for the
20 proposed rule.

21 (4) A request for comments on the proposed rule from any
22 interested person.

23 (5) The manner in which interested persons may submit
24 written comments.

25 *i.* All hearings will be recorded. A copy of the recording
26 and all written comments and documents received by the
27 commission in response to the proposed rule shall be available
28 to the public.

29 *j.* Nothing in this subsection shall be construed as
30 requiring a separate hearing on each commission rule. Rules
31 may be grouped for convenience of the commission at hearings
32 required by this section.

33 *k.* The commission shall, by a majority vote of all
34 commissioners, take final action on the proposed rule based on
35 the rulemaking record.

1 (1) The commission may adopt changes to the proposed rule
2 provided the changes do not enlarge the original purposes of
3 the proposed rule.

4 (2) The commission shall provide an explanation of the
5 reasons for substantive changes made to the proposed rule as
6 well as reasons for substantive changes not made that were
7 recommended by commenters.

8 (3) The commission shall determine a reasonable effective
9 date for the rule. Except for an emergency as provided in
10 paragraph "1", the effective date of the rule shall be no sooner
11 than thirty days after the commission issuing the notice that
12 it adopted or amended the rule.

13 1. Upon determination that an emergency exists, the
14 commission may consider and adopt an emergency rule with
15 twenty-four hours' notice, with opportunity to comment,
16 provided that the usual rulemaking procedures provided in the
17 compact and in this subsection shall be retroactively applied
18 to the rule as soon as reasonably possible, but in no event
19 later than ninety days after the effective date of the rule.
20 For the purposes of this provision, an emergency rule is one
21 that must be adopted immediately in order to do any of the
22 following:

23 (1) Meet an imminent threat to public health, safety, or
24 welfare.

25 (2) Prevent a loss of commission or participating state
26 funds.

27 (3) Meet a deadline for the promulgation of a rule that is
28 established by federal law or rule.

29 (4) Protect public health and safety.

30 m. The commission or an authorized committee of the
31 commission may direct revisions to a previously adopted rule
32 for purposes of correcting typographical errors, errors in
33 format, errors in consistency, or grammatical errors. Public
34 notice of any revisions shall be posted on the internet site
35 of the commission. The revision shall be subject to challenge

1 by any person for a period of thirty days after posting. The
2 revision may be challenged only on grounds that the revision
3 results in a material change to a rule. A challenge shall
4 be made in writing and delivered to the commission prior to
5 the end of the notice period. If no challenge is made, the
6 revision will take effect without further action. If the
7 revision is challenged, the revision may not take effect
8 without the approval of the commission.

9 *n.* No participating state's rulemaking requirements shall
10 apply under this compact.

11 9. *Oversight, dispute resolution, and enforcement.*

12 *a. Oversight.*

13 (1) The executive and judicial branches of state government
14 in each participating state shall enforce this compact and take
15 all actions necessary and appropriate to implement the compact.

16 (2) Venue is proper and judicial proceedings by or against
17 the commission shall be brought solely and exclusively in a
18 court of competent jurisdiction where the principal office of
19 the commission is located. The commission may waive venue and
20 jurisdictional defenses to the extent it adopts or consents
21 to participate in alternative dispute resolution proceedings.
22 Nothing herein shall affect or limit the selection or propriety
23 of venue in any action against a licensee for professional
24 malpractice, misconduct, or any such similar matter.

25 (3) The commission shall be entitled to receive service
26 of process in any proceeding regarding the enforcement or
27 interpretation of the compact or commission rule and shall have
28 standing to intervene in such a proceeding for all purposes.
29 Failure to provide the commission service of process shall
30 render a judgment or order void as to the commission, this
31 compact, or promulgated rules.

32 *b. Default, technical assistance, and termination.*

33 (1) If the commission determines that a participating
34 state has defaulted in the performance of its obligations or
35 responsibilities under this compact or the promulgated rules,

1 the commission shall provide written notice to the defaulting
2 state. The notice of default shall describe the default, the
3 proposed means of curing the default, and any other action that
4 the commission may take, and shall offer training and specific
5 technical assistance regarding the default.

6 (2) The commission shall provide a copy of the notice of
7 default to the other participating states.

8 *c.* If a state in default fails to cure the default, the
9 defaulting state may be terminated from the compact upon an
10 affirmative vote of a majority of the commissioners, and all
11 rights, privileges, and benefits conferred on that state
12 by this compact may be terminated on the effective date of
13 termination. A cure of the default does not relieve the
14 offending state of obligations or liabilities incurred during
15 the period of default.

16 *d.* Termination of participation in the compact shall be
17 imposed only after all other means of securing compliance have
18 been exhausted. Notice of intent to suspend or terminate shall
19 be given by the commission to the governor, the majority and
20 minority leaders of the defaulting state's legislature, the
21 defaulting state's state licensing authority or authorities,
22 as applicable, and each of the participating states' state
23 licensing authority or authorities, as applicable.

24 *e.* A state that has been terminated is responsible for all
25 assessments, obligations, and liabilities incurred through
26 the effective date of termination, including obligations that
27 extend beyond the effective date of termination.

28 *f.* Upon the termination of a state's participation in
29 this compact, that state shall immediately provide notice
30 to all licensees of the state, including licensees of other
31 participating states issued a compact privilege to practice
32 within that state, of such termination. The terminated state
33 shall continue to recognize all compact privileges then in
34 effect in that state for a minimum of one hundred eighty days
35 after the date of said notice of termination.

1 *g.* The commission shall not bear any costs related to
2 a state that is found to be in default or that has been
3 terminated from the compact unless agreed upon in writing
4 between the commission and the defaulting state.

5 *h.* The defaulting state may appeal the action of the
6 commission by petitioning the United States district court
7 for the District of Columbia or the federal district where
8 the commission has its principal offices. The prevailing
9 party shall be awarded all costs of such litigation, including
10 reasonable attorney fees.

11 *i. Dispute resolution.*

12 (1) Upon request by a participating state, the commission
13 shall attempt to resolve disputes related to the compact that
14 arise among participating states and between participating
15 states and nonparticipating states.

16 (2) The commission shall promulgate a rule providing for
17 both mediation and binding dispute resolution for disputes as
18 appropriate.

19 *j. Enforcement.*

20 (1) The commission, in the reasonable exercise of its
21 discretion, shall enforce the provisions of this compact and
22 the commission's rules.

23 (2) By a majority vote, the commission may initiate
24 legal action against a participating state in default in the
25 United States district court for the District of Columbia or
26 the federal district where the commission has its principal
27 offices to enforce compliance with the provisions of the
28 compact and its promulgated rules. The relief sought may
29 include both injunctive relief and damages. In the event
30 judicial enforcement is necessary, the prevailing party shall
31 be awarded all costs of such litigation, including reasonable
32 attorney fees. The remedies herein shall not be the exclusive
33 remedies of the commission. The commission may pursue any
34 other remedies available under federal or the defaulting
35 participating state's law.

1 (3) A participating state may initiate legal action
2 against the commission in the United States district court for
3 the District of Columbia or the federal district where the
4 commission has its principal offices to enforce compliance with
5 the provisions of the compact and its promulgated rules. The
6 relief sought may include both injunctive relief and damages.
7 In the event judicial enforcement is necessary, the prevailing
8 party shall be awarded all costs of such litigation, including
9 reasonable attorney fees.

10 (4) No individual or entity other than a participating state
11 may enforce this compact against the commission.

12 10. *Effective date, withdrawal, and amendment.*

13 a. The compact shall come into effect on the date on
14 which the compact statute is enacted into law in the seventh
15 participating state.

16 (1) On or after the effective date of the compact, the
17 commission shall convene and review the enactment of each of
18 the states that enacted the compact prior to the commission
19 convening, who shall be known as charter participating states,
20 to determine if the statute enacted by each such charter
21 participating state is materially different from the model
22 compact.

23 (a) A charter participating state whose enactment is found
24 to be materially different from the model compact shall be
25 entitled to the default process set forth in subsection 9.

26 (b) If any participating state is later found to be in
27 default, or is terminated or withdraws from the compact, the
28 commission shall remain in existence and the compact shall
29 remain in effect even if the number of participating states
30 should be less than seven.

31 (2) Participating states enacting the compact subsequent
32 to the charter participating states shall be subject to the
33 process set forth in subsection 6, paragraph "c", subparagraph
34 (23), to determine if their enactments are materially
35 different from the model compact and whether they qualify for

1 participation in the compact.

2 (3) All actions taken for the benefit of the commission
3 or in furtherance of the purposes of the administration of
4 the compact prior to the effective date of the compact or the
5 commission coming into existence shall be considered to be
6 actions of the commission unless specifically repudiated by the
7 commission.

8 (4) Any state that joins the compact subsequent to the
9 commission's initial adoption of the rules and bylaws shall be
10 subject to the commission's rules and bylaws as they exist on
11 the date on which the compact becomes law in that state. Any
12 rule that has been previously adopted by the commission shall
13 have the full force and effect of law on the day the compact
14 becomes law in that state.

15 b. Any participating state may withdraw from this compact
16 by enacting a statute repealing the state's enactment of the
17 compact.

18 (1) A participating state's withdrawal shall not take
19 effect until one hundred eighty days after enactment of the
20 repealing statute.

21 (2) Withdrawal shall not affect the continuing requirement
22 of the withdrawing state's licensing authority or authorities
23 to comply with the investigative and adverse action reporting
24 requirements of this compact prior to the effective date of
25 withdrawal.

26 (3) Upon the enactment of a statute withdrawing from this
27 compact, the state shall immediately provide notice of such
28 withdrawal to all licensees within that state. Notwithstanding
29 any subsequent statutory enactment to the contrary, such
30 withdrawing state shall continue to recognize all compact
31 privileges to practice within that state granted pursuant to
32 this compact for a minimum of one hundred eighty days after the
33 date of such notice of withdrawal.

34 c. Nothing contained in this compact shall be construed
35 to invalidate or prevent any licensure agreement or other

1 cooperative arrangement between a participating state and
2 a nonparticipating state that does not conflict with the
3 provisions of this compact.

4 *d.* This compact may be amended by the participating states.
5 No amendment to this compact shall become effective and binding
6 upon any participating state until it is enacted into the laws
7 of all participating states.

8 11. *Construction and severability.*

9 *a.* This compact and the commission's rulemaking authority
10 shall be liberally construed so as to effectuate the purposes
11 and the implementation and administration of the compact.

12 Provisions of the compact expressly authorizing or requiring
13 the promulgation of rules shall not be construed to limit the
14 commission's rulemaking authority solely for those purposes.

15 *b.* The provisions of this compact shall be severable, and
16 if any phrase, clause, sentence, or provision of this compact
17 is held by a court of competent jurisdiction to be contrary to
18 the constitution of any participating state, a state seeking
19 participation in the compact, or of the United States, or
20 the applicability thereof to any government, agency, person,
21 or circumstance is held to be unconstitutional by a court of
22 competent jurisdiction, the validity of the remainder of this
23 compact and the applicability thereof to any other government,
24 agency, person, or circumstance shall not be affected thereby.

25 *c.* Notwithstanding paragraph "b", the commission may deny
26 a state's participation in the compact or, in accordance with
27 the requirements of subsection 9, paragraph "b", terminate
28 a participating state's participation in the compact, if it
29 determines that a constitutional requirement of a participating
30 state is a material departure from the compact. Otherwise, if
31 this compact shall be held to be contrary to the constitution
32 of any participating state, the compact shall remain in full
33 force and effect as to the remaining participating states and
34 in full force and effect as to the participating state affected
35 as to all severable matters.

1 12. *Consistent effect and conflict with other state laws.*

2 *a.* Nothing herein shall prevent or inhibit the enforcement
3 of any other law of a participating state that is not
4 inconsistent with the compact.

5 *b.* Any laws, statutes, regulations, or other legal
6 requirements in a participating state in conflict with the
7 compact are superseded to the extent of the conflict.

8 c. All permissible agreements between the commission and
9 the participating states are binding in accordance with their
10 terms.

11	EXPLANATION
----	-------------

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill establishes the dentist and dental hygienist
15 compact.

16 The compact establishes a system whereby dentists and
17 dental hygienists licensed to practice in one member state may
18 practice in another member state under a compact privilege
19 without applying for a license in that state. The compact
20 imposes certain minimum requirements on the licensure of
21 dentists and dental hygienists in member states. The compact
22 comes into effect upon adoption by seven states.

23 The compact creates a commission to administer the operation
24 of the compact. The commission is an instrumentality of the
25 party states. The compact includes provisions relating to the
26 establishment and membership of the commission; powers of the
27 commission; meetings and voting requirements of the commission;
28 commission bylaws and rules; commission committees; commission
29 finances; the establishment of a licensure data system;
30 oversight by member states; compacting state compliance;
31 venue for judicial proceedings; defense and indemnification;
32 effective dates and amendments to the compact; withdrawal,
33 default, and expulsion; severability and construction; and the
34 binding effect of the compact and other laws.

35 The compact becomes effective upon the adoption of the

H.F. _____

1 compact by the seventh participating state.